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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/080,671	02/25/2002	Charles Edward Anderson IV	1875.1990000	8173
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STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C. 1100 NEW YORK AVENUE, N.W. WASHINGTON, DC 20005			EXAMINER PATEL, CHIRAG R	
			ART UNIT 2141	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/080,671

Applicant(s)

ANDERSON, CHARLES EDWARD

Examiner

Chirag R. Patel

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 October 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-50 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-50 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date: _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date: _____ | 6) <input type="checkbox"/> Other: _____ |

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on October 31, 2007 has been entered.

Response to Arguments

Applicant's arguments filed on October 31, 2007 have been fully considered but they are not persuasive. A discussion is provided below.

Gerszberg discloses per Col 9 lines 40-47, "FIG. 5 illustrates the location of a memory cache at the NSP 36 and the FMP 32. The NSP 36 may be located anywhere but is preferably located in a point-of-presence (POP) facility. The NSP 36 may further act as a gateway to, for example, any number of additional services." These passages does not preclude the caches of memory being at the FPM 32 , which is reasonably interpreted as the CPE as discussed below.

Gerszberg discloses Col 4 line 66 – Col 5 line 23, "The FMP 32 may be configured to separate the plain old telephone service (POTS) from the remainder of the data on the customer connection 30 using, for example, a tethered virtual radio channel (TVRC) modem -- part of Customer service premises, at the separation point" as this reads on the common definition of CPE per the remarks dated 09/19/2007 , "Customer

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premises equipment ("CPE") devices, on which the "application data files" are located, are by definition located within the control of a customer, as opposed to a service provider. (see, e.g., Federal Standard 1037C, Glossary of Telecommunications Terms, 1996, web available at http://www.its.bldrdoc.gov/fs_1037/fs-1037c.htm ("Terminal and associated equipment and inside wiring located at a subscriber's premises and connected with a carrier's communication channel(s) at the demarcation point"))."

Gerszberg discloses per abstract, "This invention discloses the location of caching servers at the network server platform and/or the facilities management platform. These caching servers act to store information and in many cases minimize network congestion by storing commonly used data closer to the user." Gerszberg discloses per Col 7 lines 21-33, "In further embodiments, the ISD 22 may be configured as an IP proxy server such that each of the devices connected to the server utilizes transmission control protocol/Internet protocol (TCP/IP) protocol." The TCP/IP protocol includes the use of domain names as evidenced by Gerszberg per Col 2 lines 58-64, "When information is requested to be downloaded on a regular basis such as frequently visited Internet web sites, the information is downloaded during off peak times to a close location such as the network server platform. The close location of regularly accessed data allows for faster downloads and minimizes congestion on the communication network."

Examiner has asserted that the claims are read in light of the specification for the use of "application file".

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Gerszberg discloses per Col 2 lines 58-64, "When information is requested to be downloaded on a regular basis such as frequently visited Internet web sites, the information is downloaded during off peak times to a close location such as the network server platform. The close location of regularly accessed data allows for faster downloads and minimizes congestion on the communication network" and this clearly reads on the context of applicants' specification that , "for example, the CPE application may search files associated with a Web browser, such as files that includes the domain names of favorite user Web sites, or with an electronic mail application, such as a file that identifies the domain name of one or more e-mail host data servers." (Published Instant Application at [0099]).

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 4-5, 7-9, 22-25, 27-29, 39-40, 42-45, 48, and 50 are rejected under 35 U.S.C. 102(e) as being anticipated by Gerszberg et al. – hereinafter Gerszberg (US 6,385,693).

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As per claims 1, 22 and 39, Gerszberg discloses a method for identifying frequently accessed domain names in a customer premises equipment that includes a memory and a communication interface, the frequently accessed domain names to be provided to a network gateway for use in domain name system caching, comprising the steps of:

(a) searching files in the memory to identify the frequently accessed domain names; and (Col 11 lines 10-20)

(b) providing the frequently accessed domain names to the communication interface for transmission to the network gateway over a communication path; (Col 4 line 66 – Col 5 line 23, Col 5 lines 38-47, Col 9 lines 40-47, Col 11 lines 10-20)

As per claim 4, Gerszberg discloses the method of claim 1, wherein steps (a) and (b) occur in response to the execution of an application by a user of the customer premises equipment. (Col 9 lines 48-60)

As per claims 5, 25, and 40, Gerszberg discloses the method of claim 1, wherein step (a) comprises searching application data files associated with a Web browser application. (Col 9 line 61 – Col 10 line 10)

As per claims 7, 27, and 42, Gerszberg discloses the method of claim 1, wherein step (b) comprises packetizing the frequently accessed domain names and providing

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the packetized information to the communication interface. (Col 4 line 66 – Col 5 line 23, Col 5 lines 38-47, Col 9 lines 40-47, Col 11 lines 10-20)

As per claims 8, 28, and 43, Gerszberg discloses the method of claim 1, wherein step (b) comprises storing the frequently accessed domain names in a management information base and providing the management information base to the communication interface. (Col 4 line 66 – Col 5 line 23, Col 5 lines 38-47, Col 9 lines 40-47, Col 11 lines 10-20)

As per claims 9, 29, and 44, Gerszberg discloses the method of claim 1, wherein step (b) comprises generating a domain name system query that includes the frequently accessed domain name and providing the domain name system query to the communication interface. (Col 4 line 66 – Col 5 line 23, Col 5 lines 38-47, Col 9 lines 40-47, Col 11 lines 10-20)

As per claim 23, Gerszberg disclose the customer premises equipment of claim 22 wherein the memory comprises a hard disk drive. (Col 9 lines 19-39)

As per claim 24, Gerszberg disclose the computer customer premises equipment of claim 22 wherein the communication interface is a home phonline network interface, an Ethernet interface or a Universal Serial Bus interface. (Col 6 lines 28-55)

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As per claims 45, 48, and 50, Gerszberg disclose the method of claim 1, wherein the customer premises equipment comprises a personal computer. (Col 6 lines 28-55; Col 9 lines 19-39; Figure 4B)

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 10, 13-14, 16-25, 27-33, 35-38, 46-47, and 49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gerszberg (US 6,385,693) in view of Huitema (US 6,016,512).

As per claims 10, 21, and 30, Gerszberg discloses a method for selectively caching domain name system information on a network gateway that includes a cache,

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wherein the network gateway is attached to a personal computer customer premises equipment that includes a memory, comprising the steps of:

(a) searching files in the memory to identify a frequently accessed domain name;
(Col 11 lines 10-20)

(b) providing the frequently accessed domain name from the customer premises equipment to the network gateway; (Col 4 line 66 – Col 5 line 23, Col 5 lines 38-47, Col 9 lines 40-47, Col 11 lines 10-20)

(c) generating, in the gateway, a domain name system query that includes the frequently accessed domain name; (Col 7 lines 21-33)

(d) transmitting the domain name system query from the network gateway to a network for resolution; (Col 7 lines 21-33, Col 10 line 63 – Col 11 line 9)
wherein the files in the memory comprise application data files that hold frequently accessed domain names. (Col 11 lines 10-20)

Gerszberg fails to disclose receiving, in the gateway, a response to the domain name system query from the network that includes the frequently accessed domain name and a corresponding IP address; and storing the frequently accessed domain name and the corresponding IP address in the cache. Huitema discloses receiving, in the gateway, a response to the domain name system query from the network that includes the frequently accessed domain name and a corresponding IP address; and storing the frequently accessed domain name and the corresponding IP address in the cache. (Col 3 lines 44- Col 4 line 2) In reference to KSR International Co. v. Teleflex Inc., 550 U.S. -, 82 USPQ2d 1385 (2007), it would be obvious and yielded predictable

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results for the FPM 32 to include a DNS to IP address mapping because it reduces the latency time and to increase the efficiency in processing DN queries for connecting local computers to remot computers. (Col 2 lines 22-24). This would fit in with Gerszberg as the Gerszberg is attempting to minimize congestion of the communication network by storing commonly used data closer to the user. (Gerszberg , Abstract)

As per claim 13, please see the discussion under claim 1 as similar logic applies.

As per claims 14 and 33, please see the discussion under claim 5 as similar logic applies.

As per claims 16 and 35, please see the discussion under claim 7 as similar logic applies.

As per claims 17 and 36, please see the discussion under claim 8 as similar logic applies.

As per claims 18 and 37, please see the discussion under claim 9 as similar logic applies.

As per claims 19 and 38, Gerszberg / Huitema discloses the method of claim 10. Gerszberg fails to disclose wherein step (c) comprises generating a domain name

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system query in accordance with an iterative resolution protocol. Huitema discloses wherein step (c) comprises generating a domain name system query in accordance with an iterative resolution protocol (Col 3 lines 27-43, protocol being DNS) In reference to KSR International Co. v. Teleflex Inc., 550 U.S. -, 82 USPQ2d 1385 (2007), it would been obvious and yielded predictable results to generating a domain name system query in accordance with an iterative resolution protocol in order to enable communication across the internet.

As per claim 20, Gerszberg/ Huitema disclose the method of claim 10. Gerszberg fails to disclose further comprising: (g) receiving, in the network gateway, a domain name system query from the customer premises equipment; and (h) resolving, in the network gateway, the domain name system query from the customer premises equipment using a domain name and corresponding IP address stored in the cache. Huitema discloses further comprising: (g) receiving, in the network gateway, a domain name system query from the customer premises equipment; and (h) resolving, in the network gateway, the domain name system query from the customer premises equipment using a domain name and corresponding IP address stored in the cache. (Col 5 lines 25-35) In reference to KSR International Co. v. Teleflex Inc., 550 U.S. -, 82 USPQ2d 1385 (2007), it would been obvious and yielded predictable results to receive, in the network gateway, a domain name system query from the customer premises equipment; and (h) resolve, in the network gateway, the domain name system query from the customer premises equipment using a domain name and corresponding IP

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address stored in the cache because it reduces the latency time and to increase the efficiency in processing DN queries for connecting local computers to remot computers. (Col 2 lines 22-24). This would fit in with Gerszberg as the Gerszberg is attempting to minimize congestion of the communication network by storing commonly used data closer to the user. (Gerszberg , Abstract)

As per claim 31, please see the discussion under claim 23 as similar logic applies.

As per claim 32, please see the discussion under claim 24 as similar logic applies.

As per claims 46, 47, and 49, please see the discussion under claim 45 as similar logic applies.

Claims 2-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gerszberg (US 6,385,693) in view of Majewski et al. – hereinafter Majewski (US 2002/0126812).

As per claim 2, Gerszberg disclose the method of claim 1, wherein the customer premises equipment runs an operating system. (Col 9 lines 19-39) Gerszberg fails to disclose wherein steps (a) and (b) are initiated during start-up of the operating system.

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Majewski discloses wherein steps (a) and (b) are initiated during start-up of the operating system. ([0094]) At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to disclose initiate searching and providing the frequently accessed domain name by the operating system in the disclosure of Gerszberg. The motivation for doing do would have been to transfer large amounts of data from a number of mainframe systems to a central database in a timely manner with minimal human involvement. ([0017]).

As per claim 3, Gerszberg disclose the method of claim 1, wherein the customer premises equipment runs an operating system. (Col 9 lines 19-39) Gerszberg fails to disclose wherein steps (a) and (b) are initiated periodically by the operating system. Majewski discloses wherein steps (a) and (b) are initiated periodically by the operating system. ([0094], scheduler) At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to disclose wherein steps (a) and (b) are initiated periodically by the operating system in the disclosure of Gerszberg. The motivation for doing do would have been to transfer large amounts of data from a number of mainframe systems to a central database in a timely manner with minimal human involvement. ([0017]).

Claims 6, 26 and 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gerszberg (US 6,385,693) in view of Evgey (US 2002/0120783).

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As per claims 6, 26 and 41, Gerszberg discloses the method of claim 1. Gerszberg fails to disclose wherein step (a) comprises searching application data files associated with an electronic mail application. Evgey discloses wherein step (a) comprises searching application data files associated with an electronic mail application. ([0035]) At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to search files associated with an electronic email application in the disclosure of Huitema. The motivation for doing so would have been to become a depository and a source for other recipients. ([0035])

Claims 11-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gerszberg (US 6,385,693) / Huitema (US 6,016,512) in view of Majewski et al. – hereinafter Majewski (US 2002/0126812).

As per claims 11 and 12, please see the discussion under claims 2 and 3, respectively, as similar logic applies.

Claims 15 and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gerszberg (US 6,385,693) / Huitema (US 6,016,512) in view of Evgey (US 2002/0120783).

As per claims 15 and 34, please see the discussion under claim 6 as similar logic applies.

Conclusion

All claims are drawn to the same invention claimed in the parent application prior to the filing of this Continued Prosecution Application under 37 CFR 1.53(d) and could have been finally rejected on the grounds and art of record in the next Office action. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action after the filing under 37 CFR 1.53(d). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a). [See MPEP 706.07(b) [R-6], "The claims of an application for which a request for continued examination (RCE) has been filed may be finally rejected in the action immediately subsequent to the filing of the RCE (with a submission and fee under 37 CFR 1.114) where all the claims in the application after the entry of the submission under 37 CFR 1.114 (A) are drawn to the same invention claimed in the application prior to the entry of the submission under 37 CFR 1.114, and (B) would have been properly finally rejected on the grounds and art of record in the next Office action if they had been entered in the application prior to the filing of the RCE under 37 CFR 1.114."]

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chirag R Patel whose telephone number is (571)272-

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7966. The examiner can normally be reached on Monday to Friday from 7:30AM to 4:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rupal Dharia, can be reached on (571) 272-3880. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pairedirect.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll free).

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